DOCUMENT RESUME

ED 384 129 EA 026 825

TITLE	Juvenile Justice: A Wisconsin Blueprint for Change. Report of the Juvenile Justice Study Committee.
INSTITUTION	Wisconsin State Div. of Youth Services, Madison.
PUB DATE	Jan 95
NOTE	46p.
PUB TYPE	Legal/Legislative/Regulatory Materials (090)
EDRS PRICE	MF01/PC02 Plus Postage.
DESCRIPTORS	Court Litigation; *Crime; *Delinquency; *Juvenile Courts; *Juvenile Justice; Punishment; Resource Allocation; Sanctions; *State Legislation; *Youth Problems
IDENTIFIERS	*Wisconsin

ABSTRACT

This document contains recommendations made by the Wisconsin Juvenile Justice Study Committee. Created by the Governor and the Wisconsin State Legislature to study the effectiveness of the Children's Code and related issues, the committee recommended changes that would significantly alter the way Wisconsin treats young lawbreakers. To the primary objective of offender rehabilitation, the committee adds personal accountability and community protection. Recommendations include: (1) create a separate chapter in statutes for juvenile offenders; (2) broaden court jurisdiction over juveniles, ease confidentiality requirements, expand parent responsibility, and modify procedures for holding and evaluating juveniles; (3) revise the Youth Aids allocation formula; and (4) encourage statewide use of the Juvenile Classification system. (LMI)

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JUVENILE JUSTICE: A WISCONSIN BLUEPRINT FOR CHANGE

Report of the Juvenile Justice Study Committee

EA 026 825

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JUVENILE JUSTICE: A WISCONSIN BLUEPRINT FOR CHANGE

Report of the Juvenile Justice Study Committee

January 1995

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COUNTY OF RACINE

RACINE COUNTY COURT HOUSE
1931

CIRCUIT COURT BRANCH NO. 5
DENNIS J. BARRY
JUDGE

730 Wisconsin Avenue
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53403

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Racine County Courthouse Toll Free
1-800-242-4202 Ext. 3333

TO: Honorable Tommy G. Thompson, Governor
Representative David T. Prosser, Speaker of the Assembly
Senator Brian D. Rude, President of the Senate

FROM: Dennis J. Barry, Chairperson
Juvenile Justice Study Committee

RE: Committee's recommendations

The accompanying recommendations will significantly change the way Wisconsin treats young lawbreakers. Personal accountability and community protection will join offender rehabilitation as the primary objectives of Wisconsin's juvenile justice system. Such a balanced approach is the most effective way to respond to juvenile crime.

One major change would remove delinquency related issues from Chap. 48 (Children's Code) by creating a new Juvenile Justice Code (Chap. 938). This separation symbolically and substantively provides the specialized mechanism necessary for dealing with juvenile crime. It also makes future legislative responses easier to accomplish.

Our many other recommendations range from early intervention strategies and funding changes to several procedural and jurisdictional revisions. Of course, Wisconsin's commitment to basic due process protections has been safeguarded.

The committee does not represent that these proposals will eradicate juvenile crime. The problem is one of national proportion and has components beyond the scope of the committee's mission. Nevertheless, the adoption of these proposals, when coupled with the provisions enacted by you in the last session, shall provide an effective system with which to attack the juvenile crime problem.

On behalf of the entire committee, I thank you for allowing us to work on this extremely important project. We respectfully submit to you our final report and recommendations.

INTRODUCTION

A woman is murdered in a parking lot by a youth who didn't like the way she looked at him while he was robbing her. Two teens kill a police officer in a random shooting episode. A 14-year-old youth accused of shooting a man twice has had 40 previous contacts with juvenile authorities in the past five years, while his teenage sister recently appeared in juvenile court after 44 previous contacts with juvenile authorities. A 10-year-old boy kills his father for making him go to bed early.

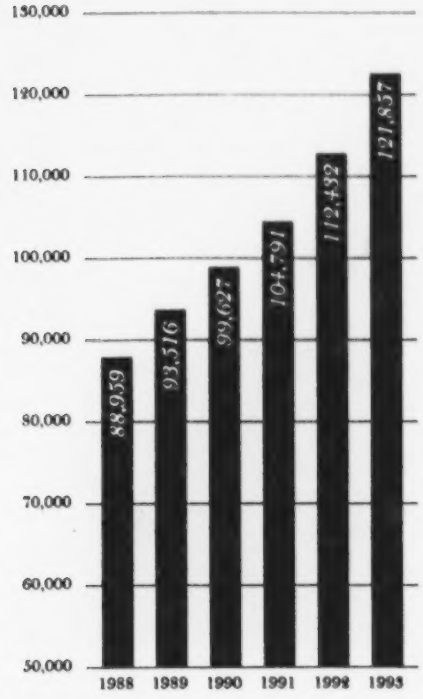
These events occurred neither in Chicago nor New York nor Los Angeles, but right here in Wisconsin. During the past six years (1988-1993), juvenile crime arrests have soared 100 percent in Wisconsin. Juvenile arrests for violent crimes are up 37 percent. In Milwaukee County, juvenile arrests for violent crimes skyrocketed 87 percent during the same period.

Crime has surfaced as the Number One concern of Americans in recent public opinion polls, and juvenile crime is on the front burner of national consciousness.

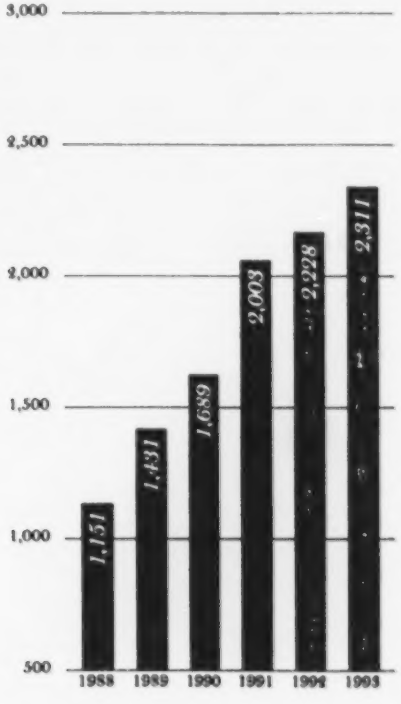
Wisconsinites are also very concerned. They see the state's juvenile justice system straining under the weight of the crime epidemic, and they perceive the system as a revolving door for troubled kids who are committing not only more crimes but more serious crimes—and at a younger age.

What's going on here? And what can be done to stem the tide of juvenile crime?

Total Juvenile Arrests in Wisconsin 1988-93



Total Juvenile Arrests for Violent Crime in Wisconsin 1988-93



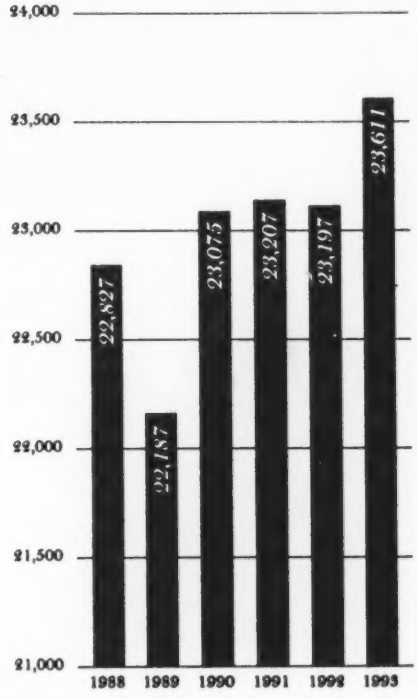
The Juvenile Justice Study Committee was created by the Governor and the Legislature to study the effectiveness of the Children's Code (Chapter 48 of the Wisconsin statutes) and to examine related issues. Chaired by Racine County Circuit Court Judge Dennis J. Barry, the committee consists of 14 persons representing the public and the legislative, executive and judicial branches of state government.

In a series of public meetings around the state during the summer and fall of 1994, committee members heard from citizens and experts on possible improvements in the effectiveness of Wisconsin's juvenile justice system. Subjects included specific changes in the laws governing juvenile justice, methods of improving funding for early intervention programs, community-based programs, and the role of assessment and evaluation in the placement of delinquent youth.

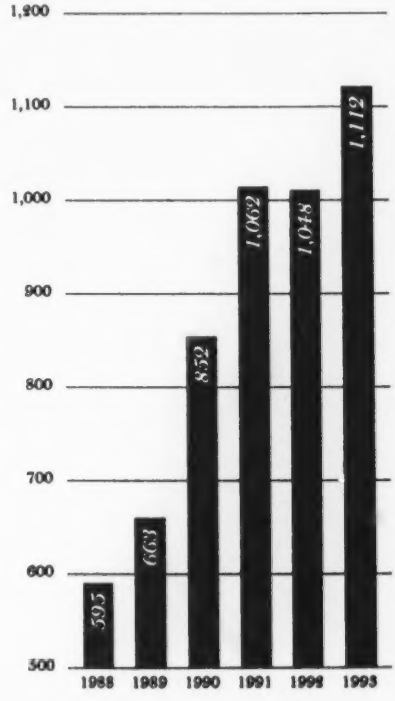
After the public meeting phase, the committee continued to meet during the fall and winter of 1994 to analyze the input and formulate recommendations, including proposed changes in Chapter 48. This report is the result. It outlines the committee's recommendations to the Governor and the Legislature. A separate bill draft incorporating many of these recommendations has also been prepared for submission to the Legislature.

The Committee recognizes that there is no magic, simple solution to the juvenile crime problem. No single change in the law or additional funding for any one program will eradicate juvenile crime. Given that reality, however, there still remains much that can be done to improve the system. It is the hope of this Committee that its work constitutes the first major step in that direction.

Total Juvenile Arrests in Milwaukee County 1988-93



Total Juvenile Arrests for Violent Crime in Milwaukee County 1988-93



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RECOMMENDATIONS: *Executive Summary*

The committee's recommendations on the juvenile justice system were developed as a result of extensive interaction with citizens, legislators, judges, educators and people who work in social services, law enforcement and juvenile justice. Guiding the committee's work were several principles:

- The juvenile justice system should be better able to protect the public from violent juvenile offenders.
- The system should operate more efficiently through streamlining of processes and improved access to information by entities that work with juvenile delinquents.
- Intervention with juveniles should be earlier and more effective to prevent more serious criminal behavior.
- The concept of personal responsibility should be expanded and reinforced.
- Punishment and sanctions should be better tailored to match the seriousness of the juvenile's offense.
- A balance which promotes personal accountablity, community protection and rehabilitation should be established.

Governor Thompson and the Legislature directed the committee to study all of the following:

- The effectiveness of the Children's Code and available resources in providing responses to delinquent behavior by juveniles that promote public safety, accountability and rehabilitation.
- Methods to increase the stability of funding for community–based, nonresidential programs for delinquent juveniles that provide early intervention services for first offenders and intensive, highly structured intervention services and supervision for repeat offenders.
- The role of assessment and evaluation in the placement of delinquent juveniles.

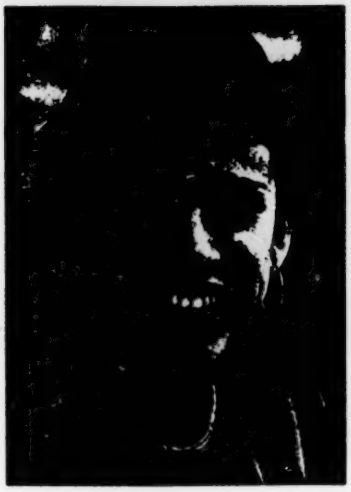
In accordance with that guidance, the committee has developed a series of recommendations intended to promote a juvenile justice system capable of dealing with contemporary juvenile delinquency issues and which protect the community while imposing accountability. Those recommendations are:

Philosophy of the Code

- Create a separate chapter in statutes for juvenile offenders.
  - Legislative intent based on a balanced approach.
  - New title.
  - New placement in the statute books.

Effectiveness

- Lower adult court jurisdiction to age 17.
- Lower the age of delinquency to 10 years.
- Expand adult court jurisdiction to homicides or attempted homicides committed by youth age 10 or older.



- Change juvenile jurisdiction waiver procedures:
  - Lowering age from 16 to 15.
  - "Once waived always waived."
  - Streamline uncontested waiver hearings.
  - Waiver *in abstentia* if juvenile absconds.
- Lower the age of eligibility of Youthful Offender participants.
- Reorganize and expand dispositional and sanction options for juvenile courts and case workers.
- Eliminate jury trials for juveniles.
- Ease confidentiality requirements:
  - Victims' rights.
  - Peace officers' records.
  - Juvenile court records.
  - Social service records.
  - Pupil records.
  - Use in other proceedings.
- Expand parental responsibility.
- Establish greater consequences for use or possession of firearms.
- Allow limited subcontracting of intake services.
- Restrict juvenile judge substitutions.
- Modify procedures for holding juveniles in custody.
- Allow greater discretion for enforcement of time limits.
- Limit "no contest" pleas.
- Modify "least restrictive" clause.
- Permit oral court reports.
- Criminalize absconding to avoid juvenile disposition.
- Modify procedures for administering psychotropic medication.
- Modify procedures for notification of victims and local agencies of juvenile release from custody.
- Enhance court jurisdiction over habitual truants.
- Increase dispositional options for municipal courts.
- Support additional secure correctional beds and staff for mental health needs.
- Support statewide juvenile justice information system.
- Support reform in other areas that overlap with juvenile crime problem.

Funding

Youth Aids allocation formula

- Update the formula biennially to reflect current county needs.
- Use factors that target need for delinquency related services, including early intervention and chronic offender services.
- Use factors based on objective, accurate (audited) data and update this data biennially.

- Rely on a combination of factors:
  - the number of children living in poverty as identified in the U. S. Census, and updated by estimates between census years.
  - the number of juvenile arrests, Part I arrests, violent arrests or a combination.
  - the number of juvenile correctional institution placements.
- Support a policy emphasis on preventative front end services as a more desirable and cost–effective goal.
- Pay for secure Child Caring Institution placement of 10–11 year olds out of the state Violent Offender appropriations for delinquency adjudications covered by that funding.

Assessment and Evaluation of Delinquent Youth

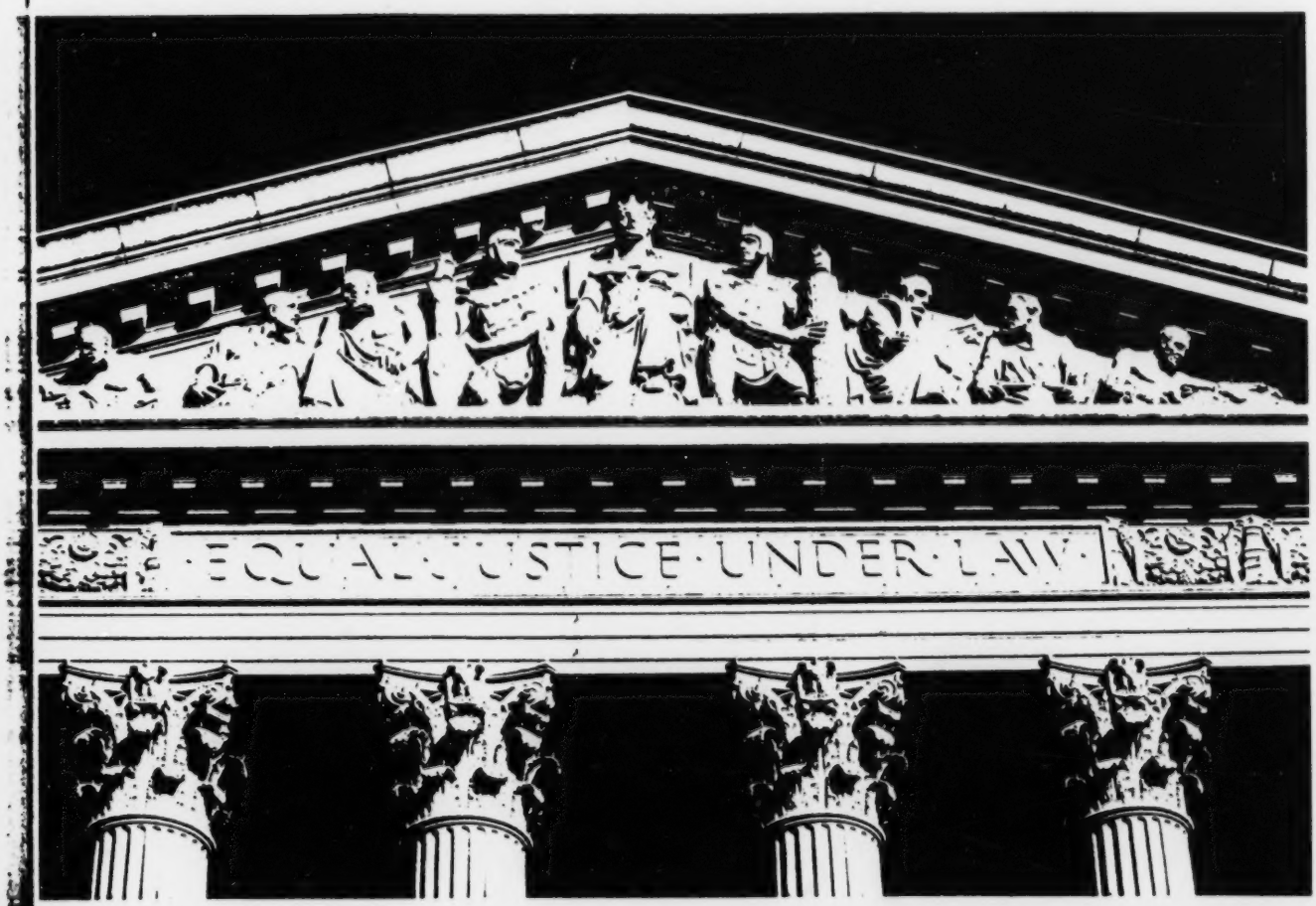
- Create statutory language that requires the Department to make the Juvenile Classification System available to all counties and to provide training upon request consistent with resources.
- Provide a mechanism for funding this training and technical assistance, and to update the system as new funding is appropriated for juvenile justice programs.
- Consider requiring counties to implement the Juvenile Classification System as a condition of receiving new state funding.
- Support DHSS's initiative to create a Juvenile Assessment and Evaluation Center.
- Encourage the legislature to address the need for creating state juvenile dispositional guidelines for judges.

HISTORY OF THE CHILDREN'S CODE

The concept of a separate juvenile justice system came into being in 1899, when Cook County in Illinois created the country's first juvenile court. Wisconsin's first juvenile court was established in 1901.

The establishment of juvenile courts was an important step in changing how society dealt with youthful offenders. Prior to juvenile courts, youthful offenders had essentially been treated the same as adult offenders. In juvenile court, however, the youth was viewed as delinquent, not criminal, and the new court's processes were non-adversarial. This new perception led to a possibility that the juvenile could not only be rehabilitated, but also protected.

The concept of protection of the juvenile, including the right of due process under the Constitution, solidified and expanded with the landmark 1967 Supreme Court case, *In re: Gault*. The Supreme Court used *Gault* to outline a due process model for juvenile courts to follow, which led to widespread procedural reform throughout the country. Left intact were the non-adversarial and rehabilitative functions of the juvenile court.



Subsequent Supreme Court decisions on the constitutional rights of juveniles helped define a consistent approach to maintaining mostly informal, protective judicial proceedings. In *McKiever v. Pennsylvania*, for instance, the Supreme Court stopped short of requiring jury trials for juveniles, fearing that such a standard would lead to a more adversarial structure for juvenile justice, including all the formality and loss of confidentiality associated with a jury trial.

The tremors of *In re Gault* and other decisions were felt strongly in the Badger State. Wisconsin has a history of reliance on institutionalization across the social services spectrum, and in the 1970's the treatment of juveniles was no exception. Some 15,000 status offenders such as runaways and truants were routinely placed in detention.

The 1978 revision of the Wisconsin Children's Code represented a major shift in the juvenile justice process. Although Wisconsin already had a juvenile system that was distinguishable from its adult counterpart, the 1978 reforms helped mold a system based on the concept of protection for the child. The phrase, "least restrictive means necessary for rehabilitation," became the new standard for dealing with juvenile delinquents.

Also, under the 1978 Children's Code, status offenders were no longer subject to detention. And more alternatives were made available to judges in dealing with adjudicated delinquents. Attorneys were provided more opportunities for participation in the court decision processes.

Increased concern about juvenile crime in the 1980s led to the creation of a Juvenile Justice Task Force in 1987. The group sought input and made recommendations for changes in the Children's Code in a variety of areas, including the availability of judicial options, the effectiveness of dispositional alternatives, the adequacy of restitution provisions, juvenile detention and detention facilities, alcohol and other drug abuse by juveniles, and prevention of juvenile truancy.

Among the Task Force's 39 recommendations for change was a suggestion that the "Least Restrictive" Clause in the Children's Code be deleted. The Task Force members felt that the clause imposed "unreasonable constraints on the court's ability to create an effective plan of services and treatment for the child...," including placement in a secure drug treatment unit or other residential program.

The public's edginess over juvenile crime continued to grow during the 1990s. Reflecting this concern, the Legislature passed Wisconsin Act 377 in 1994. The new law provided a range of juvenile delinquency programs, including the creation of a youthful offender program, establishment of a juvenile boot camp, funding for a youth village program, and funding for juvenile secured correctional and mental health beds.

Act 377 also established two committees—one to examine issues related to children in need of protection and services (CHIPS), and the other, the Juvenile Justice Study Committee, to study delinquent behavior and dispositions.

The recommendations of the Juvenile Justice Study Committee will be another historical turning point for Wisconsin's juvenile justice process. They will help create both a philosophy and mechanism with which to combat juvenile crime in the 1990s and beyond.

PHILOSOPHY OF THE CODE

Recommendation: Create a separate chapter in the statutes for delinquency matters.

Currently the laws dealing with juvenile delinquency are commingled in Chapter 48 of the statutes. Entitled "The Children's Code," Chapter 48 covers a wide range of subjects in addition to juvenile delinquency matters, including termination of parental rights, adoption of children, children who are abandoned, children who are neglected, and children who are sexually or physically abused.

The committee recognizes the obvious differences between child victims of circumstances outside of their control and young people who choose to violate society's laws. While sometimes there is a relationship between the two categories, the committee believes that it is illogical to use basically the same procedural system to deal with both categories of young people.

The committee recommends that a separate chapter in the statutes be created which exclusively deals with young law breakers. The chapter will take from Chapter 48 those sections which focus on juvenile offenders. Such a separation will make the other recommendations of this committee as well as future legislative responses to juvenile crime, easier to accomplish.

Recommendation: The new chapter relating to young law breakers should be given a new expression of legislative intent and new title.

Section 48.01 (Title and legislative purpose) has been criticized as setting an inappropriate tone for the treatment of juvenile delinquents. Even the title of Chapter 48 ("Children's Code") is misleading when it is applied to law violators who often are physically and mentally mature and who have demonstrated a willingness to engage in serious and even heinous acts. The words "child" and "children" are inappropriate when applied to such individuals.

The committee recommends referring to such persons as "juveniles." The committee also recommends the title "Juvenile Justice Code" for the laws relating to delinquency matters. The title "Children's Code" should be retained for abused, neglected and other remaining non-delinquency sections of Chapter 48. It should be noted that the same legislation that created this study committee also directed the Legislative Council to make recommendations to improve non-delinquency treatment by Chapter 48.

In addition, it is appropriate to review the legislative intent behind the current laws. The current Section 48.01(1)(c) directs:

> "(1) This chapter shall be interpreted to effectuate the following express legislative purposes:
>
> (c) Consistent with the protection of the public interest, to remove from children committing delinquent acts the consequences of criminal behavior and to substitute therefore a program of supervision, care and rehabilitation."

While the importance of rehabilitation of young people who violate the law is recognized, it is neither appropriate nor wise to remove from young people the consequences of such behavior.

The committee recommends adopting an approach which balances rehabilitation, personal accountability and public protection and which best serves both the offender and society. The committee recommends the following as the desired expression of legislative intent for the new chapter in order to reflect such an approach:

"Title, legislative intent and purposes.

(1) This chapter may be cited as "The Juvenile Justice Code" and shall be liberally construed in accordance with the objectives expressed in this section.

(2) It is the intent of the legislature to promote a juvenile justice system capable of dealing with the problem of juvenile delinquency, a system which will protect the community, impose accountability for violations of law and equip juvenile offenders with competencies to live responsibly and productively. To effectuate this intent, the legislature declares the following to be equally important purposes of this chapter:

(a) To protect citizens from juvenile crime.

(b) To hold each juvenile offender directly accountable for his or her acts.

(c) To provide an individualized assessment of each alleged and adjudicated delinquent juvenile, in order to prevent further delinquent behavior through the development of competency in the juvenile offender, so that he or she is more capable of living productively and responsibly in the community.

(d) To provide due process through which each juvenile offender and all other interested parties are assured fair hearings, during which constitutional and other legal rights are recognized and enforced.

(e) To divert juveniles from the juvenile justice system through early intervention as warranted, when consistent with the protection of the public.

(f) To respond to a juvenile offender's needs for care and treatment, consistent with the prevention of delinquency, each juvenile's best interest and protection of the public, by allowing the judge to utilize the most effective dispositional option.

(g) To ensure that victims and witnesses of acts committed by juveniles that result in proceedings under this chapter are, consistent with the provisions of this chapter and the Wisconsin Constitution, afforded the same rights as victims and witnesses of crimes committed by adults, and are treated with dignity, respect, courtesy and sensitivity throughout such proceedings.

Recommendation: The new Juvenile Justice Code should be numbered as Chapter 938.

Currently Chapters 939 to 951 comprise Wisconsin's "Criminal Code." The committee does not suggest that the newly created Juvenile Justice Code be made part of the Criminal Code; however, there are both substantive and symbolic rationales juxtaposing it as a newly created Chapter 938.

Both codes deal with the same kinds of behavior, even though there are distinctions in the ages of the perpetrators and the potential dispositions available. Young offenders would be reminded that while society does not yet classify their actions as criminal, they are "almost there." Such symbolism will provide incentives for young offenders to change their behavior.

The committee recommends that the new Juvenile Justice code be cited as Chapter 938. The sections transferred from Chapter 48 to the new Chapter 938 would retain their same section numbers for easier use by juvenile justice practitioners. Similarly, sections which have proven effective will be retained for their familiarity and for the bodies of case law that have been developed around them. However, significant revisions will be recommended in the balance of this report which will make the new Chapter 938 a more effective instrument to combat juvenile crime.

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Recommendation: Lower Adult Court Jurisdiction to Age 17.

Under current law, a person age 18 or older who violates a criminal law is subject to the jurisdiction and procedure of the court of criminal jurisdiction (adult court) and, on conviction, is subject to an adult sentence. Currently, a person who is under 18 years of age, but who is age 12 or older, and who violates a criminal law, is subject to the delinquency jurisdiction and procedures of the court assigned to exercise jurisdiction under the Children's Code and, on being adjudicated delinquent, is subject to an array of dispositions provided in the Children's Code, including placement in a secured juvenile correctional institution (JCI).

Nationally, there are twelve states that have a lower age than 18 (17 or 16) for the beginning of criminal jurisdiction. Wisconsin's neighboring states of Illinois and Michigan are included in that number. Lowering the age to 17 would have several advantages, including imposing greater accountability for those more mature juveniles who violate criminal law by allowing the full range of adult dispositions to be available for them. It also would reduce the size of the remaining juvenile population for which Youth Aids dollars would need to be targeted by counties. (See section on "Funding for Delinquency-related Services.") With the same level of funding directed at a smaller number of juveniles, counties could initiate more "front end" or early intervention programs.

The expungement provisions of Section 973.015 Stats. for persons under 21 who commit a misdemeanor and successfully complete their sentence would apply to 17 year olds prosecuted under this change. Furthermore, although such a change would require the amendment of several statutory sections referring to age, the committee specifically seeks no change in the current Section 48.355(4)(b), which provides that a juvenile court order transferring custody for placement in a secured correctional facility may be for up to two years or until the juvenile's 19th birth date, whichever is earlier.

The committee recommends lowering from 18 to 17 the age at which a person who violates a criminal law is subject to the jurisdiction and procedures of the adult court and, on conviction, to an adult sentence.

Recommendation: Lower Age of Delinquency to 10 Years.

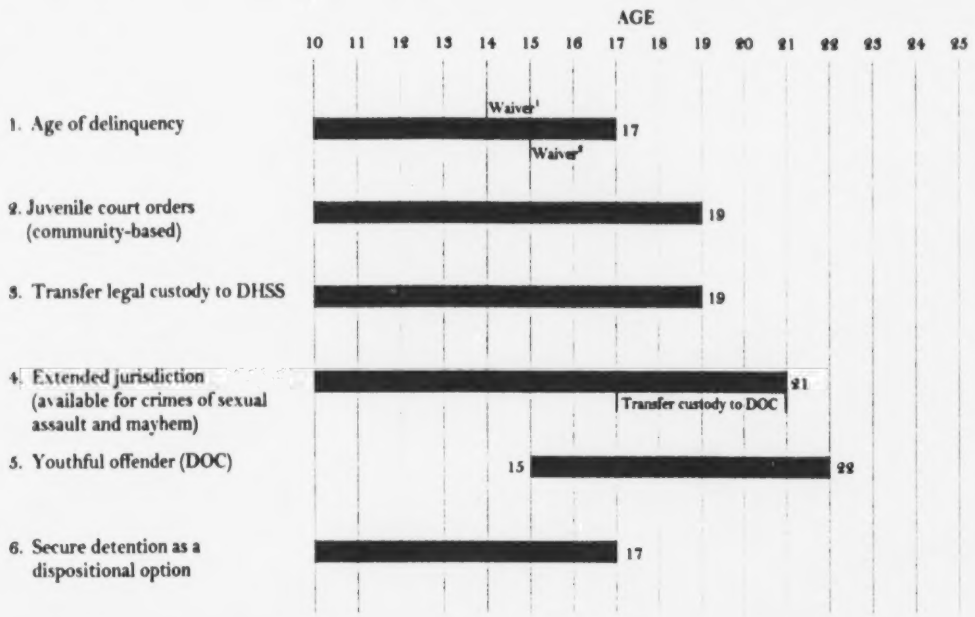
Currently a person under age 12 who violates a criminal law is deemed to be a Child in Need of Protection or Services (CHIPS), and the court's CHIPS rather than delinquency jurisdiction and procedures are invoked. Upon adjudication, the individual is subject to an array of dispositions, but not including any type of secure placement.

According to the National Center for Juvenile Justice, Wisconsin's 12 year–old "lower age threshold" for delinquency jurisdiction is the highest in the nation. Reducing the age of delinquency to 10 years of age would refocus attention to the behavior as being wrong and not just something for which the person needs protection or services. This is an important philosophical change and helps to establish personal accountability at an earlier age.

The committee recommends lowering from 12 to 10 the age at which a juvenile who violates a criminal law is subject to the delinquency jurisdiction and procedures of the juvenile

court and, on adjudication, a secure placement. However, a juvenile under age 12 who is adjudicated delinquent may not be placed in a juvenile secured correctional facility, unless such a placement is deemed appropriate by the Department of Health and Social Services. Instead, the department will be authorized to license juvenile welfare agencies to hold in secure custody juveniles under age 12 who have been adjudicated delinquent. Such a licensed facility would be defined as a "secured child caring institution." A juvenile court will be permitted to commit a delinquent juvenile under age 12 to DHSS custody for placement in a secured child caring institution.

Juvenile Justice Study Committee Dispositional Options – Recommended Changes



Waiver¹ — For the following crimes: 161.41(1); 940.225(1)&(2); 940.305; 940.31; 943.10(2); 943.32(2); and gang related offenses
Waiver² — For all other crimes

NOTE: A child charged with committing the following crimes will be prosecuted in adult court, and if convicted will receive an adult disposition: 940.01; 940.01(939.32); 940.2; 940.5. If the adult court convicts under a lesser crime, the court must enter a juvenile disposition. If an adult disposition is rendered the child shall be placed, based on age, in the following secure settings:

- Ages 10-12 CCI
- Ages 10-17 JCI
- Age 17+ transferred to DOC

Recommendation: Expand adult court jurisdiction to homicides committed at age 10 or older.

Under current law, an adult court has original jurisdiction over a juvenile who is alleged to have committed battery or aggravated assault while placed in a secured correctional facility. Such a juvenile is subject to the procedures specified in the criminal procedure code and to adult sentencing unless the adult court transfers jurisdiction to the juvenile court.

The committee believes the most serious of criminal behavior, homicide, should be under the original jurisdiction of the adult court. Under current law, juvenile court jurisdiction must end at age 25 in a case of first– degree intentional homicide and at age 21 for first–degree reckless homicide, second– degree intentional homicide and attempted first–degree intentional homicide.

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The committee recommends granting to an adult court original jurisdiction over a juvenile who is alleged to have attempted or committed first-degree intentional homicide or to have committed first-degree reckless homicide or second-degree intentional homicide on or after the juvenile's 10th birthday. Such a juvenile will be subject to the procedures specified in the criminal procedure code and to adult sentencing unless the adult court convicts the juvenile of a lesser offense, in which case the adult court must impose a disposition permitted under the juvenile justice code.

A juvenile who is convicted of attempting or committing first-degree intentional homicide or of committing first-degree reckless homicide or second-degree intentional homicide must remain under the supervision of DHSS until the juvenile reaches 17 years of age, and then must be transferred to the supervision of the Department of Corrections (DOC). DOC may place the juvenile in a state prison. The juvenile may also be paroled by the parole commission under existing parole provisions.

Recommendation: Lower the juvenile age for Waiver of Juvenile Jurisdiction.

Under current law, a juvenile court generally has original jurisdiction over a juvenile who is alleged to have violated a criminal law. Currently, however, a juvenile court may waive its jurisdiction over a juvenile who is alleged to have violated any state criminal law on or after the juvenile's 16th birthday. Waiver may also occur if the juvenile is alleged to have attempted or committed first-degree intentional homicide on or after the juvenile's 14th birthday, or who is alleged to have committed a drug delivery violation, first degree or second-degree reckless homicide, second-degree intentional homicide, first degree sexual assault, taking hostages, kidnapping, armed burglary or a gang-related violation on or after the juvenile's 14th birthday. If the juvenile court waives its jurisdiction, the juvenile is transferred to the court of criminal jurisdiction (adult court). Before waiver may occur, the juvenile court must consider all of the criteria set forth in Section 48.18 (5).

The committee recommends lowering from 16 to 15 the age at which the juvenile court may waive its jurisdiction over a juvenile who is alleged to have violated any state criminal law except as otherwise provided. The committee recommends retaining the waiver age over 14-year -old juveniles for offenses for which that right currently exists, and adding the offenses of second-degree sexual assault and armed robbery .

Recommendation: Grant original court jurisdiction based on "once waived, always waived."

Under current law, an adult court has original jurisdiction over a juvenile who is alleged to have committed battery or aggravated assault while placed in a secured correctional facility. A juvenile who is alleged to have committed battery or aggravated assault while placed in a secured correctional facility is subject to the procedures specified in the criminal procedure code and to adult sentencing unless the adult court transfers jurisdiction over the juvenile to the juvenile court. If an adult court finds probable cause to believe that a juvenile has committed battery or aggravated assault while placed in a secured correctional facility, the adult court must retain jurisdiction over the juvenile unless the adult court finds: 1) that, if convicted, the juvenile could not receive adequate treatment in the

criminal justice system; 2) that transferring jurisdiction to the juvenile court will not depreciate the seriousness of the offense; and 3) that retaining jurisdiction is not necessary to deter the juvenile or other juveniles from committing the violation of which the juvenile is accused or other similar offenses. The committee believes that once adult court jurisdiction has been exercised regarding a juvenile, subsequent violations should not require new waiver hearings.

The committee recommends granting to an adult court original jurisdiction over a juvenile who is alleged to have violated any state criminal law under any of the following circumstances:

- *The juvenile has been convicted of a previous violation following waiver of juvenile court jurisdiction.*
- *The juvenile court has waived its jurisdiction over the juvenile for a previous violation and criminal proceedings on that violation are still pending.*
- *The juvenile has been convicted of a previous violation over which the adult court had original jurisdiction or proceedings are still pending.*

Recommendation: Streamline uncontested waiver hearing procedures.

The juvenile court must currently take relevant testimony which the district attorney must present before making its decision whether to waive jurisdiction.

The committee recommends elimination of the requirement that the juvenile court take testimony if the petition for waiver is uncontested and the juvenile court is satisfied that the decision not to contest the waiver petition is knowingly, intelligently and voluntarily made.

Recommendation: Expand a juvenile court's powers to waive jurisdiction in abstentia.

Under current law, after a hearing the juvenile court may waive its jurisdiction over a juvenile age 16 or older who has violated any state criminal law and over a juvenile age 14 or older who has violated certain state criminal laws. If the juvenile court waives its jurisdiction over a juvenile, the court of criminal jurisdiction (adult court) has exclusive jurisdiction over the juvenile.

The committee recommends that the juvenile court be permitted to waive its jurisdiction over a juvenile in abstentia if the juvenile absconds and does not appear for his or her waiver hearing. If the juvenile court waives its jurisdiction over a juvenile in abstentia, the juvenile may contest the waiver when he or she is apprehended.

Recommendation: Modify the minimum age for participation in the Youthful Offender program and provide for secured correctional status for Youthful Offender program participants.

Effective December 1, 1995, a court may transfer a juvenile to the legal custody of the Department of Corrections (DOC) for placement in the Youthful Offender program if all of the following conditions apply:

- The juvenile is 16 years of age or older, has been adjudicated delinquent for committing a felony punishable by five years of imprisonment or more if committed by

an adult and has been adjudicated delinquent previously for committing an act that would be a felony if committed by an adult.

- Under previous dispositional orders since the juvenile attained the age of 12, $30,000 or more has been spent on providing services for the juvenile.
- The only other disposition that would be appropriate for the juvenile would be placement in a secured correctional facility.
- DOC recommends placement of the juvenile in the program.

If the juvenile has committed a violation punishable by life imprisonment and is placed in the program, the order must apply until the juvenile reaches 25 years of age. If the juvenile has committed any other violation and is placed in the program, the order must apply for 5 years. Under the program, DOC must provide a participant with an array of component phases, including placement in a secured correctional facility, intensive or other field supervision, electronic monitoring, alcohol or other drug abuse treatment, mental health treatment, community service, restitution and other programs.

Under current law, if a Youthful Offender program participant violates a condition of his or her participation in the program while placed in the community, DOC may, without a hearing, take the juvenile into custody and return the juvenile to a placement in a secured correctional facility or, if the juvenile has turned 18, to a state prison.

The committee recommends that DOC be required to operate the community–based component phases of the Youthful Offender program as a secured correctional facility. The bill defines the community–based component phases of the youthful offender program as a "Type 2 secured correctional facility" and all other secured correctional facilities as 'Type 1 secured correctional facilities." A juvenile who violates a condition of his or her participation in the program while placed in a Type 2 secured correctional facility may, without a hearing, be returned to a Type 1 secured correctional facility or a Type 1 prison.

The committee also recommends lowering the age of eligibility for participation in the program from 16 to 15, which corresponds with lowering the age of adult jurisdiction to 17.

Recommendation: Reorganize and expand disposition and sanction options for juvenile courts and caseworkers.

Current law provides an array of dispositions that a court may impose on a delinquent juvenile.

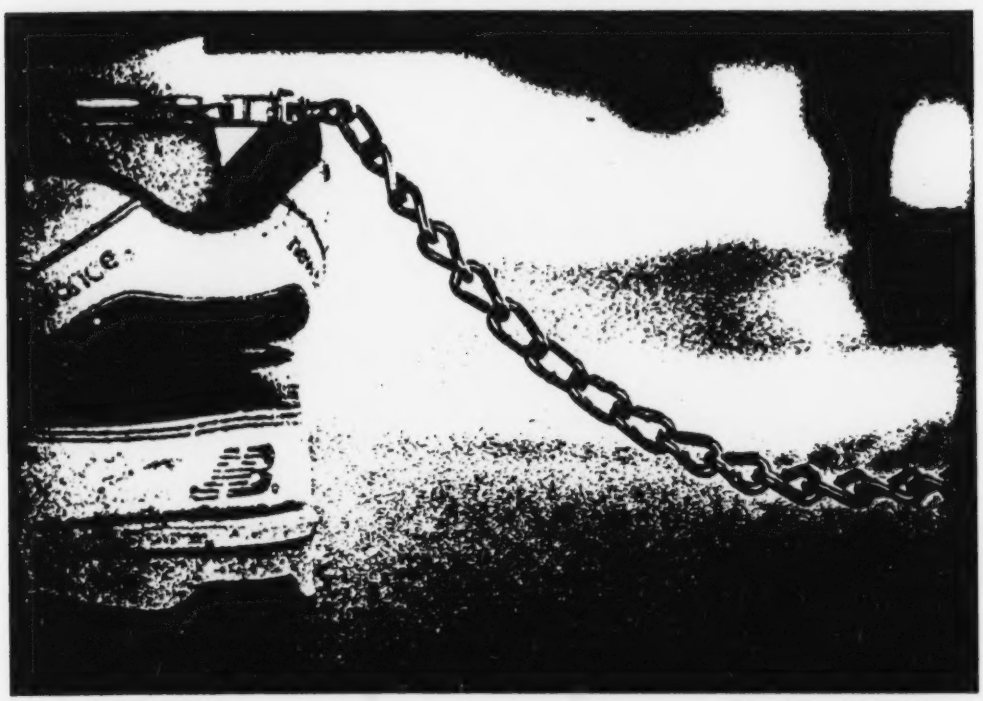
The committee recommends these dispositions be reorganized into the following categories: counseling and supervision; placements; restitution and work; treatment and education; forfeitures; specific situations; and stays and expungement.

The committee also recommends the creation of the following new dispositions:

- *Contribution of a percentage of any income that the juvenile receives while placed in an out–of–home placement as restitution to the juvenile's victim.*
- *Participation in a youth corps program, a conservation work project, a youth conservation camp or other community service work program if the program accepts the juvenile.*
- *Participation in a victim–offender mediation program if the victim of the juvenile's delinquent act agrees.*

- *Participation in available pupil assistance programs, that is, programs provided by schools to intervene in the abuse of alcohol or other drugs by pupils.*
- *Inpatient alcohol or other drug abuse treatment for not more than 30 days if the juvenile has an alcohol and other drug abuse impairment and if the juvenile is a proper subject for treatment and is in need of inpatient treatment because appropriate treatment is not available on an outpatient basis.*
- *Drug testing if the juvenile is in need of treatment for the use or abuse of controlled substances.*
- *Participation in a wilderness challenge or other experiential education program.*
- *Participation in an educational program that is designed to deter future delinquent behavior.*
- *Participation in vocational assessment, counseling and training.*
- *Participation in a day treatment program if the juvenile has specialized educational needs.*
- *Imposition of a dispositional order and staying the execution of that order contingent on the juvenile's satisfactory compliance with any conditions specified.*
- *A forfeiture not to exceed $100 for a violation of a criminal law that is applicable only to a juvenile, for example, possession of a firearm, and a forfeiture not to exceed $50 for a violation of a civil law or municipal ordinance that is applicable only to a juvenile, for example, possession of a tobacco product.*

Under current law, the juvenile court intake worker may enter into a written agreement with the juvenile and the juvenile's parent, guardian or legal custodian which imposes an informal disposition if the intake worker determines that neither the interests of the public nor of the juvenile require the filing of a petition. Currently, an informal disposition



may require the juvenile and the parent, guardian or legal custodian to appear for counseling and to abide by certain obligations imposed under the agreement, and may require the juvenile to submit to an alcohol or other drug abuse assessment, to participate in alcohol or other drug abuse treatment or education, to pay restitution, to participate in a supervised work program or to participate in a volunteers–in–probation program. Also, if the obligations under an informal disposition are not being met, the intake worker may cancel the agreement and recommend that a petition be filed.

The committee recommends that the term "informal disposition" be changed to "deferred prosecution" and that the judge or juvenile court commissioner be required to enter an order requiring compliance with a deferred prosecution agreement. If the juvenile's parent, guardian or legal custodian has failed to meet the obligations imposed under a deferred prosecution agreement, the district attorney may petition the juvenile court for an order requiring that person to show good cause for failing to meet those obligations. If the person does not show good cause, the juvenile court may impose a forfeiture not to exceed $1,000.

The committee also recommends that a juvenile who has satisfactorily complied with the conditions of his or her dispositional order be permitted to petition the juvenile court, on attaining age 17, to expunge the juvenile court's record of the juvenile's adjudication. The juvenile court may expunge the record if the court determines that the juvenile has satisfactorily complied with the dispositional order and that the juvenile will benefit and society will not be harmed by the expungement.

Under current law, a juvenile court may impose various custody dispositions on a delinquent juvenile.

The committee recommends that a juvenile court be permitted to place a delinquent juvenile in a secure detention facility or the juvenile portion of a county jail that meets specified standards, if the county board of supervisors has adopted a resolution authorizing the use of those placements as a disposition. The juvenile may also be placed in a place of nonsecure custody designated by the judge. The court may order the placement for any combination of single or consecutive days totaling not more than 30, but the court may not revise or extend the order to impose more than 30 days of detention or nonsecure custody on a juvenile. It is also recommended that the court may allow the juvenile to leave the designated facility during specified hours to attend school, to work or to attend or take part in any activity which the juvenile court considers beneficial to the juvenile.

Currently, a juvenile court, after a hearing, may impose various sanctions on a juvenile who has been adjudged delinquent and who violates a condition of his or her dispositional order, if at the dispositional hearing the juvenile court explained the conditions to the juvenile and informed the juvenile of the possible sanctions for the violation. The sanctions permitted under current law include placement of the juvenile in a secure detention facility or juvenile portion of a county jail for not more than 10 days, suspension of the juvenile's operating privilege, home detention for not more than 20 days and not more than 25 hours of community service work. Sanctions may not be imposed for any violation of a dispositional order for any juvenile in need of protection or services (CHIPS).

The committee recommends that a juvenile court be permitted to place a delinquent juvenile who has violated a condition of a dispositional order in a place of nonsecure custody as a sanction. The committee also recommends that a juvenile court be permitted to impose the current available sanctions, other than placement in a secure detention facility or juvenile portion of a county jail, and the nonsecure custody sanction on a juvenile who is in need of protection or services (CHIPS) for habitual truancy from home or school or for uncontrollable conduct, and who violates a condition of his or her dispositional order.

In addition, the committee recommends that the caseworker of a delinquent juvenile who has violated a condition of his or her dispositional order, without a hearing, be permitted to take the juvenile into custody and place the juvenile in a secure detention facility, juvenile portion of a county jail or place of nonsecure custody designated by the caseworker for not more than 72 hours for that violation, if at the dispositional hearing the juvenile court explained the conditions to the juvenile and informed the juvenile of that possibility. If the juvenile is held for longer than 72 hours, the juvenile is entitled to a sanctions hearing or a hearing on whether to continue holding him or her in custody.

Under current law, an informal disposition (deferred prosecution) or consent decree may remain in effect for up to six months, except that an informal disposition or consent decree on an allegation of habitual truancy may remain in effect for up to one year.

The committee recommends that any deferred prosecution agreement or consent decree remain in effect for up to one year.

Recommendation: Eliminate the right to a trial by jury for a juvenile who is alleged to be delinquent.

Under current law, a juvenile, and a parent, guardian or legal custodian of a juvenile, have the right to a trial by jury in the court assigned to exercise jurisdiction. A trial by jury may be demanded on a petition alleging that the juvenile is delinquent or is in need of protection or services and on a petition to terminate parental rights.

Wisconsin is one of just a few states that permit jury trials in such matters. The Wisconsin Supreme Court stated in *In the Interest of N.E.*, 122 Wis. 2d 198, 201: "We hold that a juvenile's right to a jury trial is neither a federal nor state constitutional right and is strictly a statutory, nonfundamental right."

The committee recommends the elimination of the right to a trial by jury in proceedings under the Juvenile Justice Code.

Recommendation: Make specific changes relating to the rights of a victim of a crime or violent act, attendance by the news media at hearings of the court, and the disclosure of peace officers' records of juveniles, juvenile court records, social welfare agency records and pupil records.

Victim's Rights

Under current law, the victim of a juvenile's act or alleged act may attend a fact-finding or dispositional hearing before the juvenile court and hearings before the municipal court relating to the act or alleged act, except that a judge may exclude the victim from any portion of a hearing that deals with sensitive personal matters of the juvenile and the juvenile's family and that is not directly related to the act or alleged act against the victim.

The committee recommends that the victim be permitted to attend any hearing before the juvenile court relating to that act, subject to the same restrictions as under current law for attendance at a fact-finding or dispositional hearing.

Currently, the victim of a felony or of a delinquent act that would be a felony if committed by an adult or a family member of a homicide victim may make a statement to the criminal court or juvenile court before sentencing or disposition.

The committee recommends that the victim of a misdemeanor also be permitted to make a statement before sentencing or disposition. Also, the victim of a delinquent act should be permitted to make a statement before the juvenile court enters into a consent decree in a delinquency proceeding.

Under current law, the victim of a juvenile's act or alleged act may, with the approval of the juvenile court, obtain from a law enforcement agency the names of the juvenile and the juvenile's parents. A victim may also petition the juvenile court to order a law enforcement agency to disclose to the victim as much information in its records as is necessary to meet the victim's need for the information. The juvenile court may order that disclosure only after notifying all interested parties of the request, holding a hearing if there is an objection to the disclosure, inspecting the records requested and balancing whether the victim's need for the information outweighs society's interest in protecting its confidentiality.

The committee recommends that a law enforcement agency, without a juvenile court order, be permitted to disclose to the victim of a juvenile's act or the victim's insurer any information in its records relating to any injury, loss or damage suffered by the victim, including the name and address of the juvenile and of the juvenile's parents. The victim may use and further disclose the information only for the purpose of recovering for the injury, loss or damage suffered by the victim. The insurer may use and further disclose the information only for the purpose of investigating a claim arising out of the juvenile's act.

Under current law, the victim of a juvenile's act must receive timely notice of certain information including the procedure for obtaining the juvenile's name and police records, the potential liability of the juvenile's parents for the juvenile's act, information relating to an informal disposition, consent decree or dispositional order involving the juvenile's act, the time and place of any hearing that the victim is entitled to attend, the victim's right to make a statement to the juvenile court if he or she is a victim of a felony and the fact that the proceeding has been terminated if the proceeding does not result in an informal disposition, consent decree or dispositional order. Current law, however, does not specify who provides the victim with that notice.

The committee recommends that the juvenile court intake worker provide notice of the procedure for obtaining the juvenile's name and police records, the potential liability of the juvenile's parents for the juvenile's act and the fact that the proceeding has been terminated if the proceeding is terminated without an informal disposition (deferred prosecution) before the filing of a petition. It is also recommended that the district attorney or corporation counsel provide notice of the victim's right to make a statement and the fact that the proceeding has been terminated if the proceeding is terminated without a consent decree or dispositional order after the filing of a petition.

In addition, the committee recommends the elimination of the requirement that only general information regarding an informal disposition (deferred prosecution), consent decree or dispositional order may be provided to a victim; instead, specific information regarding an informal disposition, consent decree or dispositional order, other than a psychological report, a court report prepared by a social services agency or other information dealing with sensitive personal matters of the juvenile and the juvenile's family, may be provided to a victim. It is recommended that the intake worker provide the information relating to an informal disposition (deferred prosecution), and the district attorney or corporation counsel provide the information relating to a consent decree or dispositional order.

The committee also recommends the elimination of the requirement that the district attorney or corporation counsel provide the victim with notice of any hearing that the victim may attend in all cases; instead, the district attorney or corporation counsel should be required to provide notice to the victim that the victim has the right to receive notice of any hearing that the victim may attend and to provide notice of a hearing only if the victim indicates that he or she wishes to receive that notice.

Under current law, the general public is excluded from hearings unless the juvenile demands a public fact-finding hearing. If a public hearing is not held, only the parties, their counsel, witnesses, victims, other persons requested by a party and approved by the juvenile

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court and other persons having a proper interest in the case or in the work of the juvenile court may be present.

The committee recommends that a juvenile court be permitted to admit into a closed hearing a representative of the news media who wishes to attend the hearing for the purposes of reporting news without revealing the identity of the juvenile, except as otherwise permitted.

Peace Officers' Records

Under current law, subject to certain exceptions, peace officers' records of juveniles are not open to inspection and their contents may not be disclosed, except by order of the juvenile court.

The committee recommends that a law enforcement agency be required to disclose relevant information to the county representative who needs the information for the purpose of enforcing a victim's rights and providing services for the victim.

Currently, peace officers' records may be released to a juvenile's school district administrator only for the purpose of providing alcohol or other drug abuse treatment programs for the juvenile.

The committee recommends that a law enforcement agency be permitted to disclose to a public school district administrator information in the law enforcement agency's records relating to the act for which the juvenile was adjudged delinquent. If the information is disclosed, the school district administrator then would disclose the information to teachers, other school officials who have a legitimate educational or safety interest in the information and school personnel who have been designated by the school board to receive that information for the purpose of providing treatment programs for pupils. Peace officers' records may not be used as the sole basis for expelling or suspending a pupil.

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Juvenile Court Records

Under current law, with certain exceptions, the records of the juvenile court are not open to inspection and their contents may not be disclosed except by court order. Currently, a juvenile court must disclose to anyone upon request the name and age of a juvenile who has been adjudicated delinquent for committing first–degree or second–degree intentional or reckless homicide, felony murder, first degree or second degree sexual assault or armed robbery, the nature of the violation committed by the juvenile and the disposition imposed on the juvenile as a result of that violation.

The committee recommends that a juvenile court be required to disclose to anyone upon request the records of the juvenile court, other than psychological evaluation reports, alcohol or other drug abuse assessment reports or dispositional reports or other information that deals with sensitive personal matters of the juvenile and the juvenile's family, relating to a juvenile who has been adjudicated delinquent for committing a violation that would be a felony if committed by an adult if the juvenile has been adjudicated delinquent previously or if the juvenile has been adjudicated delinquent for committing homicide by intoxicated use of a vehicle or firearm, aggravated battery, mayhem, taking hostages, kidnapping, causing death by tampering with household products, arson of a building, armed burglary, carjacking, assault by a prisoner, first degree or second degree sexual assault of a juvenile, repeated sexual assault of a juvenile, physical abuse of a juvenile, sexual exploitation of a juvenile, child enticement, soliciting a child for prostitution, child abduction, a drug delivery violation punishable by a prison term of 30 years or more if committed by an adult or solicitation, conspiracy or attempt to commit a violation punishable by life imprisonment if committed by an adult (commonly referred to as a "3 strikes and you're out" violation). The requester may further disclose the information to anyone.

In addition, the committee recommends providing for public hearings in delinquency proceedings relating to a juvenile who has been adjudicated delinquent previously or who is alleged to have committed a "3 strikes and you're out" violation, except that the juvenile court must exclude the general public from any portion of a hearing that deals with sensitive personal information about the juvenile and the juvenile's family or from any other hearing that the general public is otherwise permitted to attend. The juvenile court may also close a hearing for good cause.

The committee also recommends that a juvenile court be required to disclose information in its records as follows:

- *To the victim–witness coordinator: information relating to enforcing the rights of a victim of a juvenile's act and to providing services for that victim.*
- *To the school board of the school district in which a juvenile is enrolled or the school board's designee: the fact that a delinquency petition alleging what would be a felony if committed by an adult has been filed against the juvenile and the nature of the violation alleged in the petition; and the fact that the juvenile has been adjudicated delinquent, the nature of the violation committed by the juvenile and the disposition imposed on the juvenile as a result of that violation. A school board or designee then would disclose the information to employees of the school district who work directly with the juvenile or who have a legitimate educational or safety interest in the information. Juvenile court records may not be used as the sole basis for suspending or expelling a pupil.*

Currently, a juvenile court may disclose to a juvenile's school board only the fact that the juvenile has been adjudicated delinquent and must first notify the juvenile's parent of that intended disclosure to give the parent the opportunity to object to the disclosure.

The committee recommends the elimination of the parent's opportunity to object.

Social Services Records

Under current law, with certain exceptions, the records of a social welfare agency, that is, the Department of Health and Social Services (DHSS), a county department of human services or social services (county department) or a licensed juvenile welfare agency, relating to an individual in the care or legal custody of the social welfare agency are not open to inspection and may not be disclosed except that a social welfare agency may confidentially exchange records with another, social welfare agency or a law enforcement agency.

The committee recommends that a social welfare agency be permitted to exchange records confidentially with a public school district and the victim–witness coordinator.

Pupil Records

Under current law, pupil records, that is, records relating to an individual pupil maintained by a school, are confidential (with some exceptions). Currently, the juvenile court may order a school board to disclose the juvenile's pupil records to the county department or juvenile welfare agency responsible for supervising a juvenile who is under a juvenile court order to participate in an education program in order for the department or agency to determine the juvenile's compliance with the order.

The committee recommends that a juvenile court be permitted to order a school board to disclose pupil records as follows:

- *To a law enforcement agency: as necessary for the law enforcement agency to investigate alleged criminal or delinquent activity.*
- *To a social welfare agency: as necessary for the social welfare agency to provide treatment or care for an individual in the social welfare agency's care or legal custody.*

Currently, a school board must disclose directory data to a law enforcement agency only for the purposes of enforcing the pupil's school attendance or responding to a health or safety emergency.

The committee recommends that a school board be required to disclose certain pupil records to law enforcement agencies on request without a court order. Specifically, a school board must disclose to a law enforcement agency the attendance records of a pupil who is the subject of an investigation by the law enforcement agency. Also, a school board must disclose to a law enforcement agency directory data, that is, a pupil's name, address, telephone listing and other general information, for the purpose of investigating alleged delinquent or criminal activity by the pupil.

Recommendation: Modify juvenile court confidentiality restrictions in another court proceeding.

Under current law, subject to certain exceptions, a juvenile's disposition and the record of evidence given in a juvenile court hearing is not admissible as evidence against the juvenile in any other court.

The committee recommends that an adjudication of delinquency be considered in setting bail and to be used to attack the credibility of a witness.

Recommendation: Expand the liability and responsibilities of a parent for an act committed by his or her child and for restitution and forfeitures unpaid by his or her child.

Under current law, a parent who has custody of a juvenile is liable in an amount not to exceed $2,500 for damage to property, the value of unrecovered stolen property or an injury attributable to a willful, malicious or wanton act of the juvenile other than retail theft. For retail theft, a custodial parent is liable for the actual damages caused by the juvenile's act plus exemplary damages equal to two times the actual damages or $300, whichever is less.

The committee recommends that the maximum amount of a parent's liability for a willful, malicious or wanton act of his or her child, other than retail theft, is the jurisdictional limit of the small claims court. Currently, the jurisdictional limit of the small claims court is $4,000. Also, the court with jurisdiction will be permitted to order that any restitution or forfeiture unpaid by the juvenile be entered and docketed as a judgment against the juvenile and the parent.

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The court will be permitted to order the juvenile or parent to perform community service work instead of paying the restitution or forfeiture, except that if the juvenile court orders the parent to perform community service work, the parent must agree to do that work.

Under current law, a juvenile court may issue a summons requiring the person who has legal custody of a juvenile to appear personally before the court. Currently, if a person summoned by the juvenile court fails to appear, the person may be proceeded against for contempt of court.

The committee recommends that a juvenile court be permitted to issue a summons requiring a juvenile's parent, guardian and legal custodian to appear personally at any hearing involving the juvenile.

Current law permits a county, city or village to enact an ordinance requiring a person having under his or her control a juvenile who is between 6 and 18 years of age to cause the juvenile to attend school regularly.

The committee recommends that a town also be permitted to enact such an ordinance if the town has established a municipal court.

Under current law, the juvenile court may impose on a juvenile who violates a criminal or civil law or a municipal ordinance a forfeiture that may not exceed the maximum amount of the fine or forfeiture that may be imposed on an adult for committing the violation committed by the juvenile. Current law, however, does not specify the maximum forfeiture that may be imposed on a juvenile for committing a violation that is applicable only to a juvenile, for example, possessing a firearm or a tobacco product.

The committee recommends a maximum forfeiture of $100 for a juvenile who violates a criminal law that is applicable only to a juvenile and a maximum forfeiture of $50 for a juvenile who violates a civil law or municipal ordinance that is applicable only to a juvenile.

Recommendation: Provide penalties for firearms possession, and define the grounds for holding a juvenile in secure custody and for placing a juvenile in a secured correctional facility.

Under current law, a juvenile may be held in a secured detention facility if the juvenile intake worker determines there is probable cause to believe that the juvenile has committed a delinquent act and presents a substantial risk of physical harm to another person.

The committee recommends that a juvenile should be considered to present a substantial threat if any of the following conditions applies:

- *Probable cause exists to believe that the juvenile has committed first-degree intentional homicide, first degree reckless homicide, felony murder, second-degree intentional homicide, substantial battery, aggravated battery, mayhem, first-degree sexual assault, kidnapping, a drive-by shooting, carjacking, armed robbery, sexual assault of a juvenile, repeated sexual assault of a juvenile or physical abuse of a juvenile (violent offense).*
- *Probable cause exists to believe that the juvenile possessed, used or threatened to use a handgun, short-barreled rifle or short-barreled shotgun or commits an offense against life or bodily security (armed violent offense).*
- *Probable cause exists to believe that the juvenile has possessed or gone armed with a handgun, short—barreled rifle or short-barreled shotgun (weapons violation).*

Also, current law provides an array of dispositions that a court may impose on a juvenile who adjudged delinquent. These dispositions include placement of the juvenile in a secured juvenile correctional facility, but only if the juvenile has been found delinquent for committing an act which, if committed by an adult, would be punishable by a sentence of six months or more and if the juvenile has been found to be a danger to the public and in need of restrictive custodial treatment.

The committee recommends that a juvenile be considered a danger to the public and in need of restrictive custodial treatment if the judge finds that the juvenile has committed a violent offense, an armed violent offense or a weapons violation.

Currently, a person who gives, sells or loans a dangerous weapon to a juvenile is guilty of a Class D felony, punishable by a maximum fine of $10,000, a maximum prison sentence of five years, or both, if the juvenile discharges the firearm and causes death to the juvenile or another.

The committee recommends that the crime of providing a dangerous weapon to a juvenile be increased to a Class C felony, punishable by a maximum fine of $10,000, a maximum sentence of 10 years, or both, if the juvenile discharges the weapon and causes the death of the juvenile or another.

Current law also provides that a person who has been convicted of a felony, adjudged delinquent on the basis of a felony, or found not guilty of a felony by reason of mental disease or defect, is generally prohibited from possessing a firearm. The current penalty is a maximum fine of $10,000, a maximum prison sentence of two years, or both.

The committee recommends that the maximum prison sentence for this offense be increased to five years.

Recommendation: Allow subcontractors to provide intake services for counties that have secure detention facilities.

Under current law, the county board of supervisors of a county with a population under 500,000 must authorize the county social services agency or the court assigned to exercise jurisdiction to provide intake services for the juvenile court. Generally, employees of the county agency or juvenile court must provide the intake services required under law, for example, determining whether to hold a juvenile in custody, and those services may not be subcontracted to other individuals or agencies.

The committee recommends that a county in which the county sheriff's department operates a secure detention facility be permitted to subcontract intake services to the county sheriff's department. A county sheriff's department may perform intake services between the hours of 6 p.m. and 6 a.m. and any intake determination made by a trained county sheriff's department employee is to be reviewed by an intake worker employed by the county department or juvenile court within 24 hours after the determination is made.

Recommendation: Modify procedures for substitution of a judge in juvenile proceedings.

Under current law, a juvenile may request the substitution of a judge in a delinquency proceeding. Currently, however, a juvenile may not request the substitution of a judge in a

delinquency proceeding that is commenced within one year after the entry of a dispositional order in another proceeding under the children's code in which the juvenile requested the substitution of a judge.

The committee recommends that a juvenile may not request the substitution of a judge in a delinquency proceeding and that the child's parents, guardian or legal custodian may not request the substitution of a judge in a status offender proceeding if the judge assigned to the juvenile's proceeding has entered a dispositional order with respect to the juvenile in a previous delinquency or status offender proceeding.

Recommendation: Modify procedures for holding a juvenile in custody.

Under current law, a juvenile may be held in secure custody if probable cause exists to believe that the juvenile has committed a delinquent act and either presents a substantial risk of physical harm to another person or a substantial risk of running away, as evidenced by a previous act or attempt, so as to be unavailable for a court hearing or a revocation hearing. Currently, for juveniles on aftercare, corrective sanctions or youthful offender supervision, the delinquent act referred to may be the act for which the juvenile was placed in a secured correctional facility.

The committee recommends eliminating the requirement that the substantial risk be evidenced by a previous act or attempt. The committee also recommends that, for a juvenile who is subject to any dispositional order, not just a dispositional order placing the juvenile in a secured correctional facility, the delinquent act referred to may be the act for which the juvenile was adjudged delinquent.

Recommendation: Modify the time limits for juvenile custody decisions.

Under current law, a hearing to determine whether a juvenile in custody should continue to be held must occur within 24 hours after the decision to hold the juvenile in custody was made.

The committee recommends that the time limit be extended to within 24 hours after the end of the day that the decision to hold the juvenile in custody was made.

Also, under current law, the jurisdictional court's intake worker must recommend that a petition be filed, enter into an informal disposition or close the case within 40 days after the receipt of information that a juvenile should be referred to the juvenile court. Similarly, the district attorney or corporation counsel must file a petition, close the case or refer the case back to the intake worker within 20 days after receiving the intake worker's recommendation regarding the case.

Currently, if these time limits are not met, the juvenile court must dismiss the case with prejudice—that is, without leave to file a new petition.

The committee recommends that if a party fails to meet a specified time limit, the juvenile court may grant a continuance for good cause, dismiss the petition with or without prejudice, release the juvenile from secure or nonsecure custody or from the terms of a custody order, or grant any other relief that the court considers appropriate.

In addition, certain periods of delay are currently excluded in computing time periods, including any delay caused by the disqualification of a judge.

The committee recommends such exclusions be expanded to any delay caused by the substitution of a judge or by any other transfer of the case to a different judge, intake worker or county.

Recommendation: Limit "no contest" pleas in delinquency proceedings.

Under current law, if a juvenile is alleged to have committed a delinquent act or a civil law or ordinance violation, the juvenile may plead as follows:

- Admit some or all of the facts alleged.
- Deny the facts alleged.
- Plead no contest to the allegations.

The committee recommends that a juvenile be permitted to plead no contest only if the juvenile court permits the juvenile to enter that plea.

Recommendation: Modify the "least restrictive" limitation on dispositions.

Under current law, a disposition for a juvenile who has been adjudged delinquent or found to be in need of protection or services must protect the juvenile's well–being and be least restrictive of the rights of the parent or juvenile, consistent with the protection of the public. Currently, the family unit must be preserved whenever possible and custody may be transferred from the parent only when there is no less drastic alternative.

The committee recommends that a dispositional order be required to be consistent with the objectives contained in the expression of legislative intent and purposes of the Juvenile Justice Code.

Recommendation: Permit a court report recommending an out–of–home placement, including a correctional placement, to be presented orally at the dispositional hearing if all parties consent.

Under current law, before the disposition of a juvenile adjudged to be delinquent or in need of protection or services, an agency designated by the court must submit a report to the juvenile court describing the social history of the juvenile, a recommended plan of rehabilitation or treatment and care for the juvenile, the specific services recommended for the juvenile and a statement of the objectives of the plan (court report).

Currently, a court report recommending placement of the juvenile in his or her own home may be presented orally at the dispositional hearing if all parties consent. A court report recommending an out–of–home placement, including a correctional placement, must be in writing.

The committee recommends that this report may be presented orally, rather than in writing, if all parties agree.

Recommendation: Resolve the problem of a juvenile who pleads guilty or is adjudicated but absconds before disposition and is not apprehended before turning 18 (now 17).

The current statutes do not permit a juvenile disposition to be imposed in this situation. Under *Breed v. Jones*, 421 U.S. 519 (1975), double jeopardy concerns prevent waiver or

an adult prosecution for the same offense. However, *Breed v. Jones* may not be relevant to this situation since it involved a statute that routinely permitted successive juvenile and adult prosecutions; it did not deal with the situation where the juvenile absconds and avoids the imposition of disposition. Arguably, the juvenile's own conduct could be seen as waiving any double jeopardy protection.

The committee recommends that it be made a felony to abscond or otherwise intentionally avoid imposition of a juvenile disposition. The class of felony would be the same class of felony as the act for which the juvenile was found delinquent. If the juvenile was adjudged delinquent for committing an act that would be a misdemeanor if committed by an adult, the juvenile would be guilty of a Class E felony.

Recommendation: Modify approval procedures for administering psychotropic medication to a juvenile.

Under current law, a juvenile's parent or guardian must consent before psychotropic medication is administered.

The committee recommends that DHSS or a county social services agency having correctional supervision over a juvenile age 14 or older who is not placed in his or her own home and who wishes to be administered psychotropic medication to petition the appropriate juvenile court for permission to administer psychotropic medication to the juvenile if the consent of the parent or guardian cannot be obtained.

The juvenile court must grant that permission if it determines:

- *that the parent or guardian's consent is unreasonably withheld or that the parent or guardian cannot be found;*
- *that the juvenile is age 14 or older, is competent to consent to the administration of psychotropic medication and voluntarily consents to that administration; and*
- *that the juvenile is in need of psychotropic medication, that psychotropic medication is appropriate for his or her needs and that psychotropic medication is the least restrictive treatment consistent with those needs.*

Recommendation: Modify procedures relating to notification of victims and local agencies of a juvenile's release from custody.

Current law requires DHSS or DOC, prior to the release of a juvenile from a secured correctional facility or the placement of the juvenile in the community under the corrective sanctions program or the Youthful Offender program, to notify the law enforcement agencies, school district and county social services agencies of the community in which the juvenile will reside upon return to the community. Current law also requires notification of the victim of the act for which the juvenile was adjudicated delinquent if the victim requests notification and if the act for which the juvenile was adjudicated delinquent, if committed by an adult, would have been punishable as a crime against another person.

The committee recommends that DHSS and DOC be required to notify the local agencies of a juvenile's release from a secured correctional facility and of release from the supervision of DHSS or from the legal custody of DOC. The committee also recommends eliminating the precondition to victim notification of a juvenile's release that the act committed by the juvenile be

punishable as a crime against another person if committed by an adult. DHSS and DOC must provide notice of a juvenile's release to the victim of any delinquent act if the victim so requests. In addition, the committee recommends that the department or county department having supervision or legal custody determine the area of intended residence of the juvenile in order to notify the local agencies of the upcoming release. The notification will include the juvenile's name, date of release, and type of placement to which the juvenile is released.

Recommendation: Change the compulsory school attendance and truancy laws to enhance a court's ability to exercise jurisdiction over a habitually truant juvenile.

Under current law, before a court assigned to exercise jurisdiction over a truant juvenile may do so, evidence must be provided that school personnel have done all of the following:

a). Met with the juvenile's parent or guardian to discuss the juvenile's truancy or attempted to meet with the parent or guardian and been refused.

b). Provided an opportunity for educational counseling to the juvenile to determine whether changes in the juvenile's curriculum would resolve the juvenile's truancy.

c). Evaluated the juvenile to determine whether learning problems may be a cause of the juvenile's truancy and, if so, taken steps to overcome the learning problems.

d). Conducted an evaluation to determine whether social problems may be a cause of the juvenile's truancy and, if so, taken appropriate steps or made appropriate referrals.

The committee recommends that requirement a) should not apply if the school attendance officer provides evidence that appropriate school personnel attempted to meet with the juvenile's parent or guardian and received no response. The current exception to this requirement applies only if the juvenile's parent or guardian refused to meet with school personnel.

The committee also recommends that the activities under b) to d), need not be carried out if the school attendance officer provides evidence that school personnel were unable to carry out the activities due to the juvenile's absences.

Further, the committee recommends that the juvenile need not be evaluated under c) if tests administered within the previous year indicate that the juvenile is performing at his or her grade level. Other recommended changes in the school attendance laws:

- *Eliminate the right to a jury trial in juvenile court if the only allegation is that the juvenile is habitually truant from school.*
- *Create a new dispositional alternative for a juvenile found to be in need of protection or services based on habitual truancy or found to have violated a municipal truancy ordinance. This new alternative allows a court to order that a work permit not be issued to the juvenile or that a work permit that was already issued to the juvenile be revoked.*
- *Allow a juvenile court to order the parent, guardian or legal custodian of a habitually truant juvenile to participate in counseling at his or her own expense. It also allows the*

court to order any person who has a juvenile between the ages of 6 and 18 years under his or her control and who fails to cause the juvenile to attend school regularly to participate in counseling at the person's own expense.

- *Specify that if a juvenile who has been found to be in need of protection or services based on habitual truancy violates a condition of the juvenile court's dispositional order, the court may order any combination of suspension of the juvenile's motor vehicle operating privilege for not more than one year and one or more of the dispositions that it could have imposed under the original dispositional order. The court must hold a hearing on the imposition of these sanctions within 15 days after the filing of a motion for the imposition of a sanction.*
- *Authorize the Department of Industry, Labor and Human Relations (DILHR) to revoke a juvenile's work permit if the juvenile's educational welfare would be best served by the revocation.*

Recommendation: Make various changes relating to the authority of juvenile courts and municipal courts over juveniles who violate municipal ordinances.

Under current law, municipal courts generally have concurrent jurisdiction with juvenile courts assigned to exercise jurisdiction in proceedings against juveniles age 12 or older for violations of municipal ordinances.

A juvenile court may order a juvenile who has violated a municipal ordinance to participate in a supervised work program administered by the county department of human services or social services or by an approved community agency.

The committee recommends that a municipal court be permitted to order a juvenile who has violated a municipal ordinance to participate in a supervised work program if one has been established by the municipality. Also, both a juvenile court and a municipal court should be permitted to order a juvenile to participate in community service work other than through a supervised work program.

A juvenile court currently may order a juvenile who has committed a violation relating to the use or abuse of alcohol or a controlled substance, including an underage drinking or drug paraphernalia violation, to submit to an alcohol or other drug abuse (AODA) assessment and to participate in an outpatient AODA treatment or education program at the expense of the juvenile's parents or their health insurer — or, if payment cannot be obtained from those sources, at the expense of the county department.

The committee recommends that a municipal court be permitted to order a juvenile to submit to an AODA assessment and to participate in an outpatient AODA treatment or education program if such has been established by the municipality and subject to the same payment provisions as for a juvenile ordered to receive AODA services by a juvenile court, except that the municipality rather than the county pays for the services if payment cannot be obtained from the parent or insurer.

Under current law, a juvenile court or a municipal court may suspend the driver's license of a juvenile who has failed to pay a forfeiture ordered by the juvenile court or municipal court for not less than 30 days nor more than 90 days or until the forfeiture is paid.

The committee recommends that a juvenile court or municipal court be permitted to suspend the driver's license of a juvenile who fails to pay a forfeiture for up to five years, or until the forfeiture is paid.

A juvenile court currently may impose various sanctions on a juvenile who has been adjudged delinquent and who has violated a condition of the juvenile's dispositional order. The sanctions permitted under current law include: placement in a secure detention facility for not more than 10 days; suspension of the juvenile's driver's license or hunting or fishing license for not more than 90 days; home detention for not more than 20 days; and not more than 25 hours of uncompensated community service work.

The committee recommends that a juvenile court or a municipal court be permitted to impose those sanctions on a juvenile who has violated a civil law or municipal ordinance and violated a condition of his or her dispositional order, except that a municipal court may not impose secure detention on such a juvenile.

Recommendation: Support increased state mental health services for juveniles in state correctional facilities.

The committee became aware that the Department of Health and Social Services has requested additional staff and mental health beds at the Mendota Mental Health Institute, which serves juveniles placed in a correctional facility.

The committee supports the department's budgetary request for this purpose and has sent a letter of support for it.

Recommendation: Support a statewide juvenile justice information system.

Currently some difficulty exists in exchanging information between agencies and between counties regarding delinquent youth. Several state agencies are presently studying ways to increase availability of data in Wisconsin. Those agencies include the Office of Justice Assistance, the Department of Justice, the State Court Information Systems, and the Bureau of Information Management of the Department of Corrections.

The committee supports the efforts of the various agencies and recommends that data pertaining to juvenile delinquency records be included in any online tracking system which may be developed by them.

Recommendation: Support efforts which directly and indirectly impact on juvenile delinquency but which are outside the scope of the work of the Juvenile Justice Study Committee.

The committee recognizes that it is critical to respond appropriately to the needs of children who are abused, neglected or otherwise in need of protection or services in order to reduce the risk of their later engaging in delinquent behavior. The same legislation which created this committee also directed a study for Children in need of Protection or Services (CHIPS).

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The committee also recognizes that relationships exist between other conditions in our society and delinquency. For example, the committee was provided statistics that show most of the young people in Wisconsin's juvenile correctional institutions come from broken or single parent homes. The welfare system as structured in the past has created incentives for family breakdown and out–of–wedlock births, and it has condoned having children without being responsible for them.

CHIPS legislation, welfare reform and many other concerns in our society are outside the scope of the committee's work. We are keenly aware, however, of their relationship to the juvenile crime problem.

The committee supports reform efforts related to CHIPS, welfare and all other conditions in society which have been shown to have a relationship to the juvenile crime problem.

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FUNDING FOR DELINQUENCY-RELATED SERVICES

YOUTH AIDS

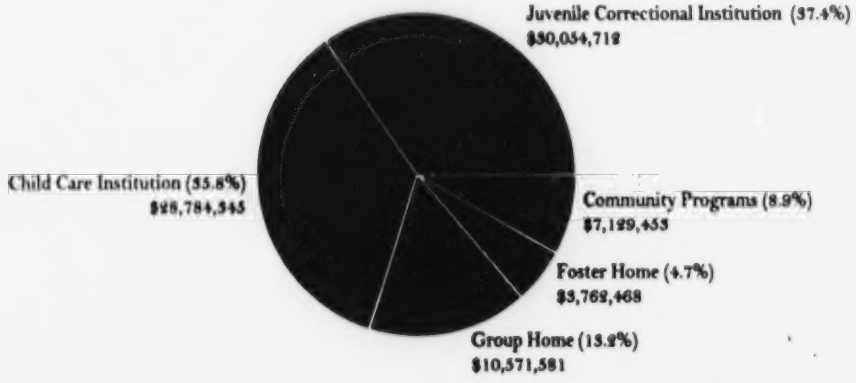
Youth Aids is the primary source of funding for delinquency-related services in Wisconsin. Each county receives an annual Youth Aids grant amount based on statutory formulas. Youth Aids allocations are charged for Juvenile Correctional Institution (JCI) placements and state-provided aftercare services. Remaining funds can be used for local delinquency-related services, including out-of-home placement (Child caring institutions (CCI), group home, foster home) and community-based programs such as day treatment, and counseling.

Under current law, Youth Aids may not be used for the costs of holding a youth in a city or county jail, or for care costs in temporary shelter care. Current law also limits Youth Aids payment for costs of secure detention facilities, stipulating that "funds under this section [s. 46.26] may be used for reimbursement of costs of program services, other than basic care and supervision costs, in juvenile secure detention facilities."

The Youth Aids program was piloted in ten counties in 1980, and implemented statewide in 1981. Since then, the Youth Aids appropriation has expanded and become more complex. Program funds generally have been distributed according to population, arrests, JCI placements and rate increases.

In 1993, counties reported spending $80,302,600 of state Youth Aids funds. More than 90 percent of these funds were spent on out-of-home placement costs for delinquent youth and status offenders. In addition, counties reported spending $53.8 million in other funds on services to delinquents and status offenders in 1993, for a total cost of $134.1 million.

1993 Youth Aids Expenditures



Source: Wisconsin DHSS Human Services Reporting System (HSRS)
Total state-wide youth aids allocation for CY 1993 was $80,302,559.

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Several recent initiatives will affect counties' 1995 funding for juvenile delinquency services.

Violent Offender

Effective January 1, 1995, the state has taken over the costs of violent offenders who are placed in JCIs. Counties will no longer be billed for daily costs of youth who have committed or were party to the following offenses:

- first-degree intentional homicide
- first degree reckless homicide
- second degree intentional homicide
- felony murder
- first degree sexual assault
- armed robbery

Capacity-building

1993 Act 377 gave $2.5 million in new funding to counties to be used for community capacity-building in the first half of 1995. New capacity is to be targeted to early intervention with first-time offenders, or for intensive intervention with serious, chronic offenders. DHSS has asked for additional funds in the 1995-97 biennium to provide an allocation of $5 million annually.

To fund the violent offender costs, $4.6 million was transferred from Youth Aids. The Legislature budgeted additional funds to pay for increases in population and daily rates. Based on five-year trends, an 18-20 percent annual increase in the number of JCI days for violent offenders is expected. State assumption of violent offender costs will mean significant fiscal relief for counties with rising numbers of these crimes.

Corrective Sanctions

Beginning in Summer 1994, six counties received new funds to purchase Corrective Sanctions services from the state, Corrective Sanctions is a new post-release option that includes monitoring of juveniles' behavior in the community, intensive services, and a high degree of accountability. It is an alternative to treatment in state JCIs. Currently, 105 Corrective Sanctions slots are authorized, with annual funding of $1,536,200. Counties are charged $66.75/day for Corrective Sanctions, compared to $111.73/day for JCI placements.

Youthful Offender

1993 WI Act 377 created a program to remove certain juvenile offenders from DHSS to DOC to participate in the five-year Youthful Offender program. Some county Youth Aids funds will be freed-up as the state assumes the costs of the Youthful Offender program.

Recommendation: Revise the Youth Aids allocation formula to respond to growing needs.

Over time, the Youth Aids formula and funding levels have become inadequate to respond to the growing need for early intervention, along with the challenges posed by increasing numbers of violent and chronic juvenile offenders.

The original funding formula was based on three factors:

- Estimated 1980 youth population in each county, under age 18.
- Each county's average number of Part I juvenile arrests during 1975–78 (Part I offenses are murder, negligent manslaughter, forcible rape, armed robbery, aggravated assault, burglary, theft, motor vehicle theft and arson).
- The county's average number of commitments to juvenile correctional institutions during 1975–78.

The committee was concerned that the Youth Aids base distribution formula relies on data from 1978, and does not necessarily reflect counties' current needs for funding of delinquency–related services. Counties whose juvenile crime problems have significantly worsened since the early 1980's may be inadequately addressed in the base allocation.

The committee examined numerous alternative factors that could be used in place of the three used in the original allocation formula. Some of the alternative factors represent "front end" needs for early intervention by focusing on risks for delinquency (example: child abuse and neglect), while other factors represent the most serious and immediate needs for public protection (example: violent arrests).

In total, the committee looked at 40 revised Youth Aids formulas, testing the impact of changing the factors by making the following substitutions:

For population age 0–17 in each county:

Age 12–17
Age 10–16
Age 0–16
AFDC recipients
Substantiated child abuse and neglect cases (CAN)
School dropouts
Combination of AFDC and CAN ("Social risk")
Combination of dropouts and CAN ("Revised social risk")
Children living in poverty

For Part I juvenile arrests in each county:

Violent juvenile arrests (murder, forcible rape, robbery and aggravated assault)
All juvenile arrests (Part I, Part II, and status offenses)
Part I and Part II juvenile arrests
Two arrest factors: Part I and violent arrests
Single combined arrest factor: Part I plus violent arrests

For JCI placements by each county:

JCI days of care

JCI plus CCI days of care

The alternative formulas were run in several ways to show their redistributive effect, both the full effect (no limits to county gain or loss), and the effect if ranges of gain and loss were limited. By adjusting the formulas, estimates were made of how funds would shift if county increases were limited to a 115 percent, 107 percent or 105 percent of their existing 1995 Youth Aids allocation. At the same time, the formulas were also adjusted to limit county losses so that, in the estimates, no county received less than 93 or 95 percent of its current allocation.

While examining Youth Aids formula options, the committee also considered other state initiatives that will have an impact on funding for delinquency services in the coming years. For example, the $2.5 million for community capacity–building in the first six months of 1995 (possibly extended into a permanent $5 million increase as requested by DHSS in the 95–97 budget) may assist in protecting funds for community services. The state takeover of JCI costs for violent offenders will lessen the demands on Youth Aids funds related to these offenses.

The committee recommends that the Youth Aids base allocation formula should be updated from the 1978 data currently used, and then reviewed biennially in order to assure that the distribution of base dollars reflects current relative need for funding.

The factors used in the Youth Aids base allocation formula should be modified as necessary to appropriately target funding based on counties' relative need for delinquency–related services, including both "front end" and "deep end" services.

The factors should be objectively defined, based on data that is audited and accurate, and biennially updated to remain current.

The committee also recommends that the U. S. Census number of children living in poverty be considered the best factor to represent the child population in each county at risk of needing delinquency–related services, because of its statistical link to other delinquency risk factors such as broken families, high–crime neighborhoods, and lower educational attainment. The stressors of poverty also are linked to child abuse and neglect, one of the strongest predictors of delinquency and youth violence. Child poverty data should be updated through estimates between Census years.

An arrest factor should continue to be used as part of the Youth Aids base formula. The Legislature should re–examine whether total arrests, Part I arrests, violent arrests or some combination thereof best represent social stress on counties and their need for delinquency services. (Violent arrests are defined as murder, forcible rape, robbery and aggravated assault.)

The committee recommends continued use of juvenile secure correctional placements as a factor in the formula.

County and state Youth Aids policy must keep a strong emphasis on front end services. Preventing youth crime and intervening early are more desirable goals, as well as more cost–effective, than "deep end" intensive supervision and incarceration.

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Also, the committee recommends that juveniles age 10 and 11 adjudicated delinquent for violent crimes as designated in the Violent Offender program and placed by the state in a secure CCI should have their care costs paid from the Violent Offender appropriation. (In this program, violent offenses are first- and second-degree intentional homicide, first-degree reckless homicide, felony murder, first-degree sexual assault and armed robbery.)

In addition, the committee recommends that current Youth Aids funding for 17-year-olds be retained in the Youth Aids allocation to counties, even though jurisdiction of 17-year-olds would shift to an adult criminal court.

Other committee recommendations on funding:

Capacity-building

The Department of Health and Social Services' proposed increase addresses the goal of reserving funds for community-based programs, and gives counties the ability to try new approaches or expand successful programs.

The committee supports the department's proposal in the 95-97 biennial budget to extend funding for community programs capacity-building into an annual $5 million appropriation.

Corrective Sanctions

A technical change is needed to bring the law into conformance with Corrective Sanctions budget assumptions and program policy, which currently allows up to $5,000 per year to be spent for supportive services for each authorized Corrective Sanctions slot (now 105 slots).

The committee recommends a change in statutory language in Sections 48.533 (1) and (2) to indicate that Corrective Sanctions funding for services in the amount of up to $5,000 per year per slot is available, to replace the current language of "$5,000 per year per participant."

Secure Detention

The committee recommends that, when secure detention is ordered as a juvenile disposition for up to 30 days, each juvenile shall receive programming that will include a daily education program.

Also, the committee recommends that the school district in which the secure detention facility is located shall be responsible for providing or reimbursing for education programming for youth in the facility who are counted as pupils in the school district. The county may charge the school district in which the youth attends school or resides for the education programming costs.

Costs to counties in which juvenile correctional facilities are located.

A county may experience additional delinquency-related costs when a juvenile correctional facility is located within the county. Examples of such costs include investigation and prosecution of offenses committed by youth while in the facility. Reimbursement to counties for expenses related to state adult correctional facilities is available under Section 59.175.

The committee supports the proposal to allow state reimbursement to counties in which juvenile correctional facilities are located, for costs those counties incurred in connection with youth placed in the facilities.

Venue

Prosecuting a youth in the county in which her/his crime was committed saves resources because it reduces costs of investigation and transportation, compared to referring the youth to his or her home county for prosecution. This is especially the case when a youth commits an offense while being held in a correctional facility. The cost to the home county to gather evidence, take testimony, and transport the youth and witnesses may discourage the county from prosecuting.

The committee recommends that the Legislature examine the issue of venue in juvenile proceedings in situations when a youth commits an offense in a county other than his/her county of residence.

Fee Collection

Current law allows counties to collect fees from parents and youth for certain delinquency-related services such as community treatment and supervision, and requires counties to charge for out-of-home placement costs. Maximizing county fee collection opportunities increases accountability for youth and their parents, along with being a revenue source for county juvenile programs.

The committee urges counties to maximize collection of fees from parents and youth for delinquency-related services as allowed by state statute and administrative rule.

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ASSESSMENT AND EVALUATION OF DELINQUENT YOUTH

In examining the role of assessment and evaluation of adjudicated delinquent juveniles in relationship to their placement, the committee reviewed two Wisconsin assessment systems, the Wisconsin Juvenile Classification System, and the state's adult court guidelines for assessment and sentencing of offenders, as well as the North Carolina sentencing guidelines.

Juvenile Risk Classification System

In 1992, DHSS began a project to develop a juvenile risk assessment and classification system. The intent was to structure decision-making in order to have consistency in the placement of adjudicated delinquents. In early 1993, the system was piloted in six counties, and is now available to all counties in the state. Currently, counties are not required to utilize this tool; approximately 15 out of 72 counties now make use of this system.

The department uses the classification system to evaluate every youth committed to DHSS for correctional services.

Juvenile classification is a method of structuring case decisions by assessing the risk level and treatment needs of delinquent youth. Risk levels of youth are calculated by rating each youth on certain factors shown through research to be indicators of continued delinquent behavior: for example, age of the youth at time of first referral to juvenile court intake. Treatment needs in areas such as education, personal relationships and vocational skills also are evaluated. The risk level and severity of a youth's committing offense are then integrated into a Service/Placement guide which suggests to the practitioner how the youth might be handled. A range of service and placement options are listed on the Guide. Examples include community-based supervision, or placement of the youth in a CCI or JCI.

The committee recommends that language be added to the statutes to require DHSS to make the Juvenile Classification System available to all counties, and to provide training to counties upon their request if resources are available to do so.

As new funding is appropriated by the Legislature for juvenile justice programs, the department should be allocated some of those funds to cover the costs of providing training and technical assistance to counties on use of the Juvenile Classification System, and to re-validate and update the assessment tool to assure that it accurately reflects risk of re-offense and the entire range of disposition options.

The committee also recommends that consideration should be given to requiring counties to implement the Juvenile Classification System as a condition of receiving new state juvenile justice funding (e.g., capacity-building funds). This decision should be made in the context of overall new funding availability for juvenile justice in the state.

In addition, the committee recommends continuation of the initiative on the department's planned free-standing Juvenile Assessment and Evaluation Center, in order to enhance assessment and appropriate placement of youth committed to DHSS for correctional services.

Disposition guidelines

The Youthful Offender program, created by 1993 WI Act 377, will provide a new disposition option to courts when determining placement of certain serious and chronic delinquent youth. The committee has recommended significant changes to the various disposition options now available to Wisconsin judges. These include: reducing the age of delinquency to 10 years; lowering the age of adult court jurisdiction to 17 years; modifying the age of eligibility for the Youthful Offender program to 15 years; and providing for short-term detention as a disposition option.

Currently, most juvenile court orders in Wisconsin are limited to a year's duration, and expire when a youth turns age 18. Commitments to JCIs are not made for a definite period of time; instead, release decisions are controlled solely by the Office of Juvenile Offender Review. This is in contrast to the adult courts, which employ an assessment and sentencing guidelines system that gives judges a recommendation on length and type of sentence for various offenses based on statutory provisions, statewide practice and the offender's characteristics. Adult offenders generally must serve until their mandatory release date, or until their initial eligibility date for parole.

Consideration could be given to structuring sentencing guidelines for juvenile dispositions similar to the methodology used for adults, if the Legislature wants more consistency in juvenile dispositions and subsequent lengths of stay.

While acknowledging that limited funds are available to state and county governments to pay for the cost of juvenile supervision, custody and care, the committee recommends that a discussion occur in the Legislature about the need for and interest in creating state juvenile dispositional guidelines for judges. The following objectives could be considered if the Legislature wants to pursue this policy change:

- *Placement guidelines shall be based upon the severity of the offense and the extent of the adjudicated delinquent youth's prior record.*
- *The length of the placement should increase in direct proportion to the offense severity and the extent of the youth's prior record.*
- *Placement could depart from the guidelines due to mitigating or aggravating circumstances.*
- *Placement guidelines should be flexible, primarily reflecting sentencing practices in the state to the extent sufficient data are available.*
- *Impact of the crime on the victim should be considered in placement decisions.*
- *Placement policies should set resource priorities: secure confinement and detention should be prioritized first for violent and repeat offenders, and community-based programs should be first utilized for non-violent delinquent youth with little or no prior record.*
- *The guidelines should promote equally the goals of community protection, personal accountability, and rehabilitation whenever feasible and appropriate.*

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